

1 BILL LOCKYER, Attorney General
of the State of California
2 T. MICHELLE LAIRD, State Bar No. 162979
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101
P.O. Box 85266
5 San Diego, CA 92186-5266
6 Telephone: (619) 645-2323
Facsimile: (619) 645-2061

7 Attorneys for Complainant
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10 **BEFORE THE**
BOARD OF OCCUPATIONAL THERAPY
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Accusation No. OA2003-113

13 MICHELLE YVONNE VELASQUEZ
14 aka MICHELLE YVONNE SANDOVAL

A C C U S A T I O N

15 4622 East San Luis Street
16 Rancho Dominguez, CA 90221

17 Occupational Therapy Assistant Cert. No. OTA
985

18 Respondent.
19

20 Complainant alleges:
21

PARTIES

22 1. Heather Martin ("Complainant") brings this Accusation solely in her
23 official capacity as the Executive Officer of the California Board of Occupational Therapy,
24 Department of Consumer Affairs.

25 2. On or about January 10, 2003, the California Board of Occupational
26 Therapy issued Occupational Therapy Assistant Certificate Number OTA985 to Michelle
27 Yvonne Velasquez, also known as Michelle Yvonne Sandoval ("Respondent"). The certificate
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1 was in full force and effect at all times relevant to the charges brought herein and will expire on
2 October 31, 2006, unless renewed.

3 JURISDICTION

4 3. This Accusation is brought before the Board of Occupational Therapy,
5 under the authority of the following laws. All section references are to the Business and
6 Professions Code unless otherwise indicated.

7 4. Section 2570.28 states:

8 "The board may deny or discipline a licensee for any of the following:

9 "(a) Unprofessional Conduct"

10 ". . . .

11 "(e) Conviction of a crime or of any offense substantially related to the
12 qualifications, functions, or duties of a licensee, in which event the record of the conviction shall
13 be conclusive evidence thereof.

14 ". . . .

15 "(h) Committing any fraudulent, dishonest, or corrupt act that is substantially
16 related to the qualifications, functions, or duties of a licensee.

17 ". . . .

18 "(o) Committing any act that would be grounds for denial of a license under
19 Section 480.

20 ". . . ."

21 5. Section 480 states, in pertinent part: "(a) A board may deny a license
22 regulated by this code on the grounds that the applicant has one of the following:

23 "(1) Been convicted of a crime. A conviction within the meaning of this section
24 means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action
25 which a board is permitted to take following the establishment of a conviction may be taken
26 when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal,
27 or when an order granting probation is made suspending the imposition of sentence, irrespective
28 of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

1 "(2) Done any act involving dishonesty, fraud or deceit with the intent to
2 substantially benefit himself or another, or substantially injure another; or

3 "(3) Done any act which if done by a licentiate of the business or profession in
4 question, would be grounds for suspension or revocation of license.

5 "The board may deny a license pursuant to this subdivision only if the crime or act
6 is substantially related to the qualifications, functions or duties of the business or profession for
7 which application is made.

8 "...."

9 6. Section 490 states, in pertinent part, that "a Board may suspend or revoke
10 a license on the ground that the licensee has been convicted of a crime, if the crime is
11 substantially related to the qualifications, functions or duties of the business or profession for
12 which the license was issued."

13 7. Section 493 states:

14 "Notwithstanding any other provision of law, in a proceeding conducted by a
15 board within the department pursuant to law to deny an application for a license or to suspend or
16 revoke a license or otherwise take disciplinary action against a person who holds a license, upon
17 the ground that the applicant or the licensee has been convicted of a crime substantially related to
18 the qualifications, functions, and duties of the licensee in question, the record of conviction of the
19 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
20 and the board may inquire into the circumstances surrounding the commission of the crime in
21 order to fix the degree of discipline or to determine if the conviction is substantially related to the
22 qualifications, functions, and duties of the licensee in question.

23 "...."

24 8. Section 2570.30 states:

25 "The board shall retain jurisdiction to proceed with any investigation, action or
26 disciplinary proceeding against a license, or to render a decision suspending or revoking a
27 license, regardless of the expiration, lapse, or suspension of the license by operation of law, by

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1 order or decision of the board or a court of law, or by the voluntary surrender of a license by the
2 licensee."

3 9. Section 125.3 provides, in pertinent part, that the Board may request the
4 administrative law judge to direct a licensee found to have committed a violation or violations
5 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
6 enforcement of the case.

7 **Criminal Conviction For Making False/Fraudulent Claim - April 2, 2003**

8 **FIRST CAUSE FOR DISCIPLINE**

9 (Conviction of a Substantially Related Criminal Offense)

10 10. Respondent's certificate is subject to disciplinary action under Sections
11 480(a)(1) and (a)(3), 490, and 2570.28(e) and (o) in that Respondent has been convicted of a
12 crime which is substantially related to the qualifications, functions and duties of an occupational
13 therapy assistant. The circumstances are as follows:

14 11. On or about April 2, 2003, in Riverside County Superior Court, Case No.
15 RIF107530, entitled *People v. George Sandoval and Michelle Yvonne Sandoval*, Respondent was
16 convicted by the court on her plea of guilty to concealing or knowingly failing to disclose the
17 occurrence of an event affecting any person's initial or continued right or entitlement to any
18 insurance benefit or payment, or the amount of any benefit or payment to which the person is
19 entitled, in violation of Penal Code section 550(b)(3) (false or fraudulent claim or statement), a
20 misdemeanor.

21 12. On the basis of Respondent's plea described in paragraph 11, Respondent
22 was placed on summary probation for 5 years on terms and conditions which included an order of
23 commitment for thirty days, to be served on consecutive weekends (with credit for one day
24 served), payment of approximately \$20,000.00 in restitution to the victim and approximately
25 \$2200.00 in other fines, and that Respondent obey all laws, submit to immediate searches by a
26 probation or other law enforcement officer, and not have any contact with the victim, Lyndon
27 Property Insurance.

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1 13. The circumstances of the crime as charged are that on or about December
2 7, 1998, Respondent conspired with her husband to file a false or fraudulent claim for payment of
3 a loss under a contract of insurance. Thereafter, on December 8, 1998, Respondent participated
4 in filing a false police report concerning the theft, destruction, damage or conversion of an
5 insured motor vehicle (a 1998 Honda Accord), participated in concealing this motor vehicle,
6 participated in presenting a false or fraudulent claim for payment of a loss for theft, destruction,
7 damage or conversion of this motor vehicle, and, on December 31, 1998 submitted a false and
8 fraudulent affidavit for payment of the loss of this vehicle under a contract of insurance.

9 SECOND CAUSE FOR DISCIPLINE

10 (Committing a Substantially Related Fraudulent, Dishonest or Corrupt Act)

11 14. Respondent's certificate is subject to disciplinary action under Sections
12 2570.28(h) and (o), and 480(a)(3), on the grounds that she has committed a fraudulent, dishonest
13 or corrupt act that is substantially related to the qualifications, functions and duties of an
14 occupational therapy assistant, based upon the facts and circumstances set forth in the First Cause
15 for Discipline.

16 THIRD CAUSE FOR DISCIPLINE

17 (Committing an Act Involving Dishonesty, Fraud or Deceit)

18 15. Respondent's certificate is subject to disciplinary action under Sections
19 2570.28(o), and 480(a)(2), on the grounds that she has committed an act involving dishonesty,
20 fraud or deceit with the intent to substantially benefit herself or another, or substantially injure
21 another, based upon the facts and circumstances set forth in the First Cause for Discipline.

22 FOURTH CAUSE FOR DISCIPLINE

23 (Unprofessional Conduct)

24 16. Respondent's certificate is subject to disciplinary action under Section
25 2570.28(a), on the grounds of unprofessional conduct, based upon the facts and circumstances set
26 forth in the First Cause for Discipline.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board issue a decision:

4 1. Revoking or suspending Occupational Therapy Assistant Certificate
5 Number OTA985, issued to Respondent.

6 2. Ordering Respondent to pay the reasonable costs of the investigation and
7 enforcement of this case, pursuant to Business and Professions Code section 125.3;

8 3. Taking such other and further action as deemed necessary and proper.

9 DATED: 11-15-05

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12 HEATHER MARTIN
13 Executive Officer
14 Board of Occupational Therapy
15 Department of Consumer Affairs
16 State of California
17 Complainant

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